

REMARKS

The present application is a Rule 114 Request for Continued Examination (RCE) of parent application Serial No. 09/581,602, filed August 18, 2000.

In an amendment after final filed March 24, 2008, applicants amended independent claims 36, 41, 45 and 49 to further patentably distinguish from the prior art of record. Claims 36, 38, 39, 43, 47, 51, 57, 61 and 65 were amended to overcome the corresponding objections and Section 112, first paragraph, rejection. Claims 42, 53-56, 58-60, 62-64, and 66-68 were further amended to conform to the foregoing claim amendments and to define the claimed invention with more specificity. Applicants further presented arguments traversing the drawing and claim objections and the Section 112 and Section 102/103 rejections of the claims.

In an Advisory Action dated April 10, 2008, the Examiner denied entry of the amendments to the claims as raising new issues requiring further search and consideration. The Examiner further advised that upon entry, the claim amendments would overcome the claim objections and the Section 112 and Section 102/103 rejections of the claims.

The Examiner further advised in the Advisory Action that the objection to the drawings set forth in the final Office Action is not overcome by the arguments presented in

the amendment after final. The Examiner also advised that, upon entry of amended claims 36 and 41, these claims would be objected to as being patentably indistinguishable (i.e., as being directed to duplicative subject matter).

Formal Interview Request

Applicants' undersigned representative hereby requests a telephonic interview with the Examiner prior to issuance of a new Office Action to address the objections to the drawings and claims 36 and 41 noted in the Advisory Action. **The Examiner is requested to call applicants' undersigned representative at 212-809-3700 to schedule the telephonic interview** in sufficient time for the interview to be conducted prior to the Examiner issuing a new Office Action. Applicants' representative intends for the remarks included herein to serve as an interview outline for the interview to be scheduled.

Drawing Objection

Newly submitted Figs. 26-27 were objected to under 37 C.F.R. 1.83(a) as failing to show either the groove or the optically different refractive indexes as described in the specification. According to the Examiner, while the grooves and substances in Figs. 26 and 27 are designated with

reference numerals 1500 and 1600, respectively, "there is no clear indication as to what this refers to." Applicants respectfully disagree.

Figs. 26 and 27 were submitted in the supplemental response filed January 18, 2007 in order to comply with 37 C.F.R. §1.83(a) which requires that the drawings must show every feature of the invention recited in the claims. In Fig. 26, the grooves in the medium are clearly denoted with reference numeral 1500. In Fig. 27, the substances in the medium are clearly denoted with reference numeral 1600. Pages 42 and 49 of the specification, as amended in the supplemental response, provide clear descriptions for Figs. 26 and 27, including the grooves denoted by reference numeral 1500 and the substances denoted by reference numeral 1600.

Thus, the Examiner's position that it is unclear what the reference numerals 1500 and 1600 in Figs. 26 and 27 refer to is not understood by applicants. Nevertheless, applicants respectfully submit that Figs. 26 and 27 clearly show and identify the grooves and substances with reference numerals 1500 and 1600, respectively, as set forth above. Accordingly, applicants respectfully submit that Figs. 26 and 27 are in full compliance with 37 C.F.R. §1.83(a) and request that the objection thereof be withdrawn.

Objection to Claims 36 and 41

Claims 36 and 41 (as amended by the March 24, 2008 amendment after final) were objected to in the Advisory Action as being patentably indistinguishable (i.e., as being directed to duplicative subject matter). Applicants respectfully disagree.

Independent claims 36 and 41 are each directed an information reproducing apparatus. Claim 36 recites polarized light control means for controlling the linearly polarized light generated by the light source to pass through the fine aperture of the optical head to generate near-field light having a preselected polarization direction and to irradiate the linear marks in the information unit field of the medium with the near-field light so that the preselected polarization direction of the near-field light is orthogonal to a longitudinal axis of each of the linear marks.

In contrast, independent claim 41 recites polarized light control means for controlling the linearly polarized light generated by the light source to pass through the fine aperture of the optical head to generate near-field light and to irradiate the linear marks disposed in the information unit field of the medium with the near-field light, and for controlling a direction of polarization of the near-field light so that the direction of polarization of the

near-field light irradiated on the linear marks is orthogonal to a longitudinal axis of each of the linear marks.

Thus, independent claims 36 and 41 differ in scope from one another in that, unlike claim 41, claim 36 requires the generation of near-field light in a preselected polarization direction such that the preselected polarization direction is orthogonal to a longitudinal axis of each of the linear marks. Stated otherwise, claim 41 is not limited to the feature that the direction of polarization of the generated near-field light which is preselected is also the direction of polarization of the near field light that is irradiated in a direction orthogonal to a longitudinal axis of each of the linear marks, as required by independent claim 36 (i.e., in claim 41, the polarization direction of the near-field light generated need not be the same as the polarization direction of the near-field light when irradiated in the direction orthogonal to the longitudinal axis of the each of the linear marks).

In view of the foregoing discussion, it is respectfully submitted that the objections to the drawings and claims 36 and 41 have been overcome and should be withdrawn.

Should the Examiner maintain any of the foregoing objections to the drawings and claims, applicants' representative look forward to discussing these objections,

and any other issue which the Examiner deems proper, during the telephonic interview which is to be scheduled.

In view of the foregoing amendments and discussion, the application is believed to be in allowable form. Accordingly, favorable reconsideration and allowance of the claims are most respectfully requested.

Respectfully submitted,

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MAILING CERTIFICATE

I hereby certify that this correspondence is being deposited with the United States Postal Service as first-class mail in an envelope addressed to: Mail Stop RCE, COMMISSIONER FOR PATENTS, P.O. Box 1450, Alexandria, VA 22313-1450, on the date indicated below.

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Name

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Signature

APRIL 21, 2008

Date